

## Remarks

In the present response, no claims are amended Claims 1-20 are presented for examination.

### **Claim Rejections: 35 USC § 102(e)**

Claims 1, 2, 5-12, 14, and 20 are rejected under 35 USC § 102(e) as being anticipated by USPN 7,016,970 (Harumoto). These rejections are traversed.

The claims recite various elements that are not taught or suggested in Harumoto. Some examples are provided below.

#### Claim 1

As one example, claim 1 recites using a shared secret to initialize a cryptographically secure hashed end of file marker for streaming data. Harumoto does not teach this element. The Office Action cites Harumoto at column 10, lines 42-62. Applicants respectfully traverse.

Column 10 at lines 42-62 in Harumoto discusses the command and stream exchange between a server and terminal for exchanging data streams. Initially, the terminal sends the server a command (SETUP) signifying it is ready to exchange the stream. The server responds with a command (OK), and the terminal transmits another command (PLAY) to instruct the server to begin streaming data. The server transmits the stream. The terminal then transmits a command (TEARDOWN) to instruct the server to terminate the transmission.

Nowhere does Harumoto teach that the server and terminal transmit a shared secret before streaming data. Nowhere does Harumoto teach initializing a cryptographically secure hashed end of file marker for streaming data. Harumoto merely mentions that the terminal transmits a TEARDOWN command. Harumoto does not state that this command is a cryptographically secure hashed end of file marker.

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed (see *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985)). For at least these reasons, claim 1 and its dependent claims are allowable over Harumoto.

As another example, claim 1 recites comparing the streaming data with the cryptographically secure hashed end of file marker to determine when an end of the streaming data occurs. Harumoto does not teach this element.

Harumoto merely mentions that the terminal transmits a TEARDOWN command to the server. In response to receiving this command, the server terminates the transmission. By contrast, claim 1 recites a specific type of comparison: comparing the streaming data with a cryptographically secure hashed end of file marker to determine when an end of the streaming data occurs. This comparison is not made in Harumoto. Again, Harumoto teaches that the server terminates the stream upon receiving the TEARDOWN command. A comparison as recited in the claim 1 is not performed.

For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference (see *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990)). For at least these reasons, claim 1 and its dependent claims are allowable over Harumoto.

#### Claim 8

As one example, claim 8 recites exchanging a public key between two participants to generate a secret key. The Office Action cites Harumoto at column 10, lines 42-62. Applicants have reviewed this section of Harumoto but find not teaching whatsoever that the server and terminal exchange a public key to generate secret key before streaming the data.

Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). For at least these reasons, claim 8 and its dependent claims are allowable over Harumoto.

As another example, claim 8 recites initializing, with the secret key, a cryptographically secure end of file for streaming data. Harumoto merely mentions that the terminal transmits a TEARDOWN command to the server. In response to receiving this command, the server terminates the transmission. Harumoto never states that initializing, with the secret key, a cryptographically secure end of file for streaming data.

Anticipation is established only when a single prior art reference discloses each and every element of a claimed invention united in the same way (see *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444 (Fed. Cir. 1984)). For at least these reasons, claim 8 and its dependent claims are allowable over Harumoto.

As yet another example, claim 8 recites transmitting the cryptographically secure end of file to signify between the participants an end to the streaming data. Harumoto merely mentions that the terminal transmits a TEARDOWN command to the server. In response to receiving this command, the server terminates the transmission. Harumoto never teaches that the TEARDOWN command is cryptographically secure.

There can be no difference between the claimed invention and the cited reference, as viewed by a person of ordinary skill in the art (see *Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991)). For at least these reasons, claim 8 and its dependent claims are allowable over Harumoto.

#### Claim 14

As one example claim 14 recites first and second participants communicate via the network to calculate a cryptographically secure end of file marker for streaming data. Harumoto never teaches this recitation. In Harumoto, the server and terminal never calculate a cryptographically secure end of file marker for the stream. Instead, the terminal transmits a command (TEARDOWN) to terminate the data exchange.

Anticipation under section 102 can be found only if a single reference shows exactly what is claimed (see *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985)). For at least these reasons, claim 14 and its dependent claims are allowable over Harumoto.

As another example, claim 14 recites that only the first and second participants can recognize the cryptographically secure end of file marker for the streaming data. Harumoto never teaches this recitation. In Harumoto, the terminal transmits a command (TEARDOWN) to terminate the data exchange. Harumoto does not discuss that both the server and terminal can recognize a cryptographically secure end of file marker.

For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference (see *In re Bond*, 910

F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990)). For at least these reasons, claim 14 and its dependent claims are allowable over Harumoto.

As yet another example, claim 14 recites that the cryptographically secure end of file marker is updated as the streaming data is transmitted or received. Harumoto never teaches that the TEARDOWN command is updated as the streaming data is transmitted or received.

There can be no difference between the claimed invention and the cited reference, as viewed by a person of ordinary skill in the art (see *Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991)). For at least these reasons, claim 14 and its dependent claims are allowable over Harumoto.

#### **Claim Rejections: 35 USC § 103(a)**

Claims 3, 4, 13, 15, and 16-19 are rejected under 35 USC § 103(a) as being unpatentable over USPN 7,016,970 (Harumoto) in view of Official Notice. These rejections are traversed.

The Office Action admits that Harumoto does not teach all of the recitations in claims 3, 4, 13, 15, and 16-19. Applicants agree with these admissions. The Office Action, however, attempts to cure this deficiency with Official Notice. Applicants respectfully traverse.

Per MPEP § 2144.03, Applicants challenge the factual assertion as not properly officially noticed or not properly based upon common knowledge. As such, Applicants ask the Examiner to provide adequate **documentary evidence**.

Applicants contend that the noticed fact is not considered common knowledge or well-known in the art. It is not common knowledge or well-known in the art to provide the specific limitations of dependent claims 3 and 4 with independent claim 1, or dependent claim 13 with independent claim 8, or dependent claims 15, 16-19 with independent claim 14.

In light of this traversal, Applicants respectfully ask the Examiner to produce authority (in the form of documentary evidence) for the alleged notice.

### **CONCLUSION**

In view of the above, Applicants believe that all pending claims are in condition for allowance. Allowance of these claims is respectfully requested.

Any inquiry regarding this Amendment and Response should be directed to Philip S. Lyren at Telephone No. 832-236-5529. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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